

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL NO. 1456
LITIGATION)	Civil Action No. 01-12257-PBS
)	
THIS DOCUMENT RELATES TO)	Hon. Patti B. Saris
01-CV-12257-PBS AND 01-CV-339)	Chief Mag. Judge Marianne B. Bowler
)	

**DEFENDANTS' MOTION TO COMPEL THIRD PARTY OXFORD HEALTH PLANS
TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION
PURSUANT TO SUBPOENA AND FOR RECOVERY OF
ATTORNEY FEES AND COSTS**

Defendants to the Amended Master Consolidated Class Action Complaint respectfully move this Court for an order compelling third party Oxford Health Plans (“Oxford”) to produce documents and witnesses for deposition pursuant to the subpoena served upon Oxford on April 19, 2004, for recovery of attorney fees and costs, and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the accompanying memorandum of law, declaration of Adeel Mangi and exhibits thereto.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d) the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and exhibits. For the reasons described in the accompanying memorandum of law and declaration, defendants request that the Court order the responsible in-house representative of Oxford to attend the oral argument.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for Oxford regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Dated: March 17, 2006

Respectfully submitted,

/s/ Andrew D. Schau

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Attorneys for Defendants Johnson & Johnson, Centocor Inc. and Ortho Biotech Products L.P., on behalf of all defendants to the Amended Master Consolidated Class Action Complaint

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE)
PRICE LITIGATION) MDL No. 1456
)
)
Master File No. 01-CV-12257-PBS
)
THIS DOCUMENT RELATES TO:) Judge Patti B. Saris
THE AMENDED MASTER)
CONSOLIDATED CLASS ACTION) Chief Mag. Judge Marianne B. Bowler
)
)

**[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO COMPEL THIRD
PARTY OXFORD HEALTH PLANS TO PRODUCE DOCUMENTS AND WITNESSES
FOR DEPOSITION PURSUANT TO SUBPOENA AND FOR RECOVERY OF
ATTORNEY FEES AND COSTS**

Having considered each of the parties' and third party's submissions with respect to Defendants' Motion to Compel Third Party Oxford Health Plans To Produce Documents And Witnesses For Deposition Pursuant To Subpoena And For Recovery Of Attorney Fees And Costs, the Court hereby grants the motion.

It is hereby ordered that within twenty days of the entry of this order, Oxford Health Plans complete production to defendants of all documents responsive to defendants' subpoena. It is further ordered that the Plan produce witnesses for deposition within thirty days of the date of this order. Defendants are awarded costs and fees in an amount to be assessed.

Dated: _____

Hon. Marianne B. Bowler
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on March 17, 2006 a true and correct copy of the forgoing DEFENDANTS' MOTION TO COMPEL THIRD PARTY OXFORD HEALTH PLANS TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION PURSUANT TO SUBPOENA AND FOR RECOVERY OF ATTORNEY FEES AND COSTS was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties. I further certify that on March 17, 2006 a copy was served on counsel for third party Oxford Health Plans via Federal Express.

/s/ Andrew Schau

Andrew Schau